IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ petition No.4340 of 2002

Date of decision: March 23, 2007.

Diwan Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

Present: Mrs.Savita Bhandari and Mrs. Brij Bala Advocates
for the petitioner.

Mr.Jitendra Chauhan, Addl. Advocate General, Haryana
for the respondent-State.

JUDGMENT

M.M.Aggarwal, J.

Petitioner had joined the service of Haryana Roadways in the year 1973. Then he was promoted as Assistant Cashier in the year 1978. Thereafter on 4.4.1997 certain shortage of cash was found. An FIR was registered. Separate Inquiry started. Enquiry Officer after holding regular enquiry had found charges proved. Then petitioner was issued show cause notice, copy Annexure P-5 proposing penalty of removal from service. Petitioner had submitted reply, copy Annexure P-6. However, services of the petitioner were terminated vide order dated 8.5.1998 of the Transport Commissioner, Haryana, copy Annexure P-8.

Petitioner had filed statutory appeal against that order which was dismissed by the Government vide order dated 11.12.2001.

In this petition, order of punishment whereby service of the petitioner was terminated, has been challenged.

On behalf of the petitioner it was argued that petitioner was falsely involved in the criminal case. He had neither committed any cheating nor was

guilty of dishonesty. Lastly it had been argued that show cause notice was for removal from service, whereas order of punishment is termination of service.

Removal from service is punishment mentioned in Rule 4(1) in clause (x) of the Haryana Civil Services (Punishment & Appeal) Rules, 1987, whereas clause (x) is dismissal from service. There is no word 'termination of service'. That word 'termination of service' is there in Rule 4(1) Explanation (vii) where services of temporary employee on probation, are terminated.

When after considering the inquiry report, the Transport Commissioner had issued notice proposing punishment of removal from service, then there is no explanation coming from the respondent-State as to why there is order of termination. From perusal of order dated 8.5.1998 of Transport Commissioner, Haryana, it would come out that after discussing the whole case, he had come to the conclusion that it was not fit to retain the petitioner in service. If that was the position, then proposed order of punishment of removal from service would have served the purpose. No order of termination was necessary nor any cause is shown for making order of termination instead of removal as proposed.

Under these circumstances, this petition is allowed to the extent that impugned order dated 8.5.1998 of Transport Commissioner, Haryana shall be treated to be an order of removal from service of the petitioner within the meaning of clause (ix) of Rule 4(1) of the Haryana Civil Services (Punishment and Appeal) Rules, 1987.

(M.M.Aggarwal)
Judge

March 23, 2007
raghav